

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20872

Application 28960 of Andrew D. Rizzo

36865 Road 156, Visalia, CA 93291

filed on January 16, 1987, has been approved by the State Water Resources Control Board
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source: <u>Cottonwood Creek</u> 	Tributary to: <u>Cross Creek thence</u> <u>Tule River</u>
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2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
North 500 feet and West 1,250 feet from SE corner of Section 11	SE¼ of SE¼	11	17S	25E	MD

County of Tulare

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Irrigation	SE¼	11	17S	25E	MD	160.00
	NE¼ of SW¼	11	17S	25E	MD	26.83
	NW¼ of SW¼	11	17S	25E	MD	4.98
	N½ of NW¼	11	17S	25E	MD	80.00
	SE¼ of NW¼	11	17S	25E	MD	40.00
	SW¼ of NW¼	11	17S	25E	MD	38.97
	NE¼ of NE¼	10	17S	25E	MD	40.00
	NW¼ of NE¼	10	17S	25E	MD	39.66
	SW¼ of NE¼	10	17S	25E	MD	1.93
	SE¼ of NE¼	10	17S	25E	MD	21.87
					Total	454.24

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 5.347 cubic feet per second (cfs) to be diverted from May 1 to September 1 of each year. The maximum amount diverted under this permit shall not exceed 908.5 acre-feet per year. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 2001. (0000008)

8. Complete application of the water to the authorized use shall be made by December 31, 2005. (0000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

11. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

13. The equivalent of the authorized continuous flow allowance for any 30-day period may be diverted in a shorter time, provided there is no interference with other rights and instream beneficial uses, and provided further that all terms and conditions protecting instream beneficial uses are observed. (0000027)

14. Permittee shall allow representatives of the State Water Resources Control Board, a designated representative of the Kaweah and St. Johns Rivers Association and other parties, as may be authorized from time to time by Board, reasonable access to project works to determine compliance with the terms of this permit. (0480011)

15. During the period between May 1 and September 1, if hydraulic continuity exists, in Cottonwood Creek between Road 80 and Road 132, permittee shall not divert water under this permit and shall allow all streamflow to pass over the diversion structure and flow undiminished downstream.

For the purposes of this condition, hydraulic continuity means a visible flow of water where Cottonwood Creek passes under Roads 80, 108, 132 and Route 63. If the stream channel is dry or has only pools of standing water at any one of these crossings, hydraulic continuity does not exist. (0000110)

16. Permittee shall install and maintain on the diversion discharge line, a flowmeter satisfactory to the State Water Resources Control Board, which is capable of measuring the instantaneous flow rate in cubic feet per second and the total quantity of water in acre-feet diverted under this permit.

Permittee shall record the total amount of water diverted each month and shall submit these records to the State Water Resources Control Board in the "Annual Progress Report by Permittee". A copy of the records shall also be submitted to the Kaweah and St. Johns Rivers Association. (000R001)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: September 27, 1996

STATE WATER RESOURCES CONTROL BOARD

Roger Johnson
for Chief, Division of Water Rights